THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.22489 of 2005

DATED:18-10-2005

BETWEEN:

Katta Krishna Murthy .. Petitioner

And

The Registrar Cooperative Societies

And others .. Respondents

–

–

–

–

–

–

–

–

–

–

–

–

–

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.22489 of 2005

ORDER:

This petition is filed questioning the rejection of the nomination of the petitioner to the Primary Agricultural Cooperative Credit Society Bommalaramaram, Nalgonda.

The contention of the learned counsel for the petitioner is that the order of the rejection of the nomination of the petitioner is unsustainable, because the conviction against the petitioner was in fact set aside by the appellate Court in an appeal and that fact was not taken in to consideration by the Election Officer. It is also her contention that the Election Officer with a mala fide intention of declaring the 5th respondent elected unopposed had thought fit to reject the nomination of the petitioner even without affording an opportunity of being heard to the petitioner and since there is prima facie, illegality, in the action of the Election Officer, petitioner has a right to approach this Court under Article 226 of the Constitution of India.

The contention of the learned Government Pleader is that since the election process has already begum, the remedy of the petitioner, if any, is only by way of election petition, but he cannot invoke jurisdiction of this Court under Article 226 of the Constitution of India.

I n **V.NARAYANA v ELECTION OFFICER,MUNICIPAL COMMISSIONER, ALWAL MUNICIPALITY, R R DISTRICT AND ANOTHER,** arising under Hyderabad Municipal Corporation's Act it is held that validity of rejection of a nomination in Municipal Election can be challenged only before Election Tribunal and that a writ petition questioning the order of rejection of a nomination is not maintainable the same view was taken by the two Full Benches of this Court in **A.P.SARPANCH ASSOCIATION AND OTHERS v GOVERNMENT OF A.P. PANCHAYAT RAJ DEPARTMENT AND OTHERS, GUTHAKONDA KANAKA DURGA v STATE ELECTION COMISSIONER, GOVERNMENT OF ANDHRA PRADESH, HYDERABAD AND OTHERS AND** the Apex Court in **C.SUBRAHMANYAM v K.RAMANJANEYULU AND OTHERS. In Shri Sant Sadguru Janardhan Swami S.D.U. Samstan Vs. State of Maharastra** also it is held that when the election process in a cooperative Society has begun, writ petition under Article 226 of the

Constitution is not maintainable. In view thereof since the writ petition itself is not maintainable, I do not wish to go in to the merits of the contention raised by the learned counsel for petitioner, as they have to be considered by the Tribunal concerned, if and when the petitioner approaches it for appropriate relief. Therefore, the petition is dismissed as not maintainable granting liberty to the petitioner to approach the tribunal for appropriate relief. No costs.

_____

18-10-2005

kvrm/dvs